

DECLARATION OF  
MICHAEL LUCKERT FOR  
OPPOSITION TO  
SUMMARY JUDGMENT

---

1 Michael Luckert  
2 391 ELLIS . ST, San Francisco , CA 94102  
3 email: michaelluckert1@gmail.com

4 ATTORNEY IN PRO-SE: Michael Luckert  
5

6 UNITED STATES DISTRICT  
7 COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 Michael Luckert , Plaintiff  
10 VS  
11 San Francisco Police Dept  
12 And OFFicer: Gutierrez  
13 , defendant's  
14 Case No: CV-19-08204-PJH  
15 Declaration of Michael  
16 Luckert FOR OPPOSITION  
17 TO SUMMARY Judgment

18 I, Michael Luckert, declare as follows:  
19 1. I am, and at all relevant times mentioned  
here in. I have personal knowledge of the  
contents of this declaration. If called upon to  
testify, I could and would testify competently to  
the contents of this declaration.

20 2. On February 26, 2019, I got falsely charged  
21 with Resisting Arrest, OBSTRUCTING / Delaying/  
22 a Peace Officer / EMT , Interfering with a public  
23 agency , Disturbing the peace, poss of a weapon  
24 at the Courthouse/public Building . ALL CHARGES got  
25 Dropped per Exhibit 1 .

26 3. I was brought to the San Francisco  
27 county Main Library Security Building Ground  
28 Patrol office. I did not know exactly what

Declaration of Michael Luckert Page 1 of 2  
~~IN SUPPORT OF IT, at ML FOR  
OPPOSITION TO SUMMARY JUDGMENT~~

1 Officer at the building grounds security office at  
2 the plant library was responsible for applying  
3 ~~pressure to my handcuffed hands until I read the~~  
4 Declaration's of each Officer at the scene of this  
5 particular incident. Only (1) officer in the building  
6 grounds security office applied pressure to my handcuffed  
7 wrists. And in Officer Gutierrez Declaration he  
8 is admitting to applying pressure to my wrist at  
9 the building grounds security office at the main  
10 library in San Francisco.

11 4. At the San Francisco County Jail only  
12 two officers applied pressure to my handcuffed  
13 wrist. One of the officers is Officer Brian  
14 mendoza. The other one is Officer Gutierrez.  
15 Since my Amended Complaint I have been saying  
16 that only (2) officers injured me while at San  
17 Francisco County Jail. In Officer Gutierrez  
18 Declaration he is admitting applying pressure  
19 to my handcuffed wrist at San Francisco County Jail.

20 5. These officer's that applied pressure to  
21 my handcuffed wrist's injured me.

22 I declare under penalty of perjury  
23 pursuant to the laws of the United State that  
24 the foregoing is true and correct.

25 Executed this 13th day of June, 2024 at  
26 and in the County of Alameda.

27 Michael Luckert

28 Michael Luckert

IN SUPPORT OF  
DOCUMENTED PLEADINGS  
FOR EVIDENCE AND  
EXHIBITS FOR  
OPPOSITION TO  
SUMMARY JUDGMENT

1 Michael Luckert  
2 391 ELLIS ST, San Francisco, CA 94102  
3 email: michaelluckert1@gmail.com

4 Attorney In Pro-se: Michael Luckert

5  
6 UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA

8 Michael Luckert, Plaintiff  
9 .VS  
10 San Francisco Police Dept.  
11 AND OFFICE: GUTIERREZ  
12 # 1928, Defendant's  
13  
14

Case No: 19-08204-PJH  
IN SUPPORT OF  
DOCUMENTED  
PLEADINGS FOR  
Evidence AND EXHIBITS  
FOR OPPOSITION TO  
SUMMARY JUDGMENT<sup>mc</sup>  
JUDGMENT

15 To the honorable Judge and Jury. Here again is  
16 Plaintiff's support of AND Documented evidence  
17 of briefly what happened in triage and the Medical  
18 Medical Neglect AND also the excessive force  
19 that happened at San Francisco County Jail.

20  
21  
22 (EXHIBIT-1), DISPOSITION SHEET OF ALL  
23 Charges Dropped From Affest on 02-26-2019.

24 This disposition sheet to show that all the charges  
25 were dropped on the 02-26-2019 arrest For: Resisting  
26 Arrest, Obstructing/Delaying Peace Officer,  
27 Interfering With a public agency, Disturbing the  
28 Peace, Possession of a Weapon in courthouse/public

IN SUPPORT OF Documented Pleadings  
FOR Evidence AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR opposition to SUMMARY JUDGMENT

1 Building AND is in support of (exhibit -1.C), San  
2 Francisco Medical Report, highlighted area: per LT.  
3 Daggs client's charges are dropped?  
4  
5  
6

## COUNT 1 MEDICAL NEGLECT

7 (1). (EXHIBIT -1.P), Declaration of Edward  
8 Gutierrez in Support of Defendants Motion for  
9 Summary Judgment, Document 50-17, Filed 08-10-2021,  
10 Page 3 Lines 10-12, "During the Medical triage  
11 component of the booking process, Plaintiff  
12 continued to be resistive and refused to  
13

14 ( CONTINUED ON PAGE 3)  
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1 answer the questions of Jail Medical Services,  
2 including refusing to answer whether he was  
3 suicidal.

4 (1-a) Officer Gutierrez lied. IN (EXHIBIT-1.A),  
5 San Francisco Medical Report Triage screening. I  
6 was answering triage questions as you can see from  
7 the triage intake page 32. And I did answer if  
8 patient suicidal. In the highlighted Area it  
9 says "NO".

10 So as the Judge and Jury can see officer  
11 Gutierrez # 1928 Declaration, Document 50-17, filed  
12 08/10/21, Page 3 Lines 10-12 "During the medical  
13 triage component of the booking process, Plaintiff  
14 continued to be resistive and refused to answer the  
15 questions of Jail Medical Services, including refusing to  
16 answer whether he was suicidal. These statements  
17 of Officer Gutierrez #1928 is opposite to triage  
18 intake (EXHIBIT-1.A) San Francisco Medical Report  
19 triage.

20 The Plaintiff Declare's that because the  
21 defendant Gutierrez lied he really does not  
22 remember what happened. And the Defendant's  
23 Declaration is in hindsight. Because originally  
24 the Police report stops with (EXHIBIT-1.Q),  
25 San Francisco Sheriff's Department incident report  
26 Narrative INCIDENT NO: 190-143-778 IN the  
27 Highlighted Area. "Deputy Gutierrez and  
28 Deputy B. Mendoza #2324 transported Luckert

In support of Documented Pleadings  
For evidence and EXHIBITS FOR TRIAL Page 3 OF 15  
~~AND EXHIBITS FOR MOPP~~ OPPOSITION TO  
Summary Judgment.

1 to County Jail #1. Where he was medically cleared  
 2 and booked for the following : 148(a) PC, 602.1(b) PC,  
 3 171b(a) PC and 415 PC. The end of any narrative  
 4 report on Plaintiff.

5 So what did happen with the medical  
 6 Neglect is officer Gutierrez #1928 was escorting  
 7 Plaintiff to triage on 2-26-2019 at : (EXHIBIT - I-A),  
 8 San Francisco Medical Report + triage screening, 17:37  
 9 Plaintiff was being seen in the San Francisco  
 10 Medical triage screening and was starting to tell the  
 11 Medical Staff what happened with my hands and  
 12 the Excessive force earlier in the day and the  
 13 Police officer's did not like it . SO they gave Plaintiff  
 14 all of a few seconds to respond and when Plaintiff  
 15 started talking about his hand injury Officer  
 16 Gutierrez #1928 Pulled me away and to the safety cell.  
 17 (EXHIBIT - I-R), San Francisco Medical Report, Page 33,  
 18 Safety cell placement time : 17:50,

19 SO officer Gutierrez #1928 only gave me a  
 20 couple of seconds to talk to triage. Triage time  
 21 17:37. Safety cell time 17:50. AND When it  
 22 came to talking about the hand injury OFFicer  
 23 Gutierrez #1928 Pulled me away to the Safety cell  
 24 so that I could not get NO Pain killer for my  
 25 hand injury. Keeping me in Pain. Which is  
 26 medical Neglect. AND Because OFFicer  
 27 Gutierrez # did not want me to report any  
 28 Excessive force. I was pulled away to the Safety  
 IN SUPPORT OF Documented Pleadings Page 4 of 15  
 For Evidence ~~SEE EXHIBITS FOR TRIAL~~  
 AND EXHIBITS FOR OPPOSITION TO ML  
 SUMMARY JUDGMENT

1 cell. ALSO in  
2 (EXHIBIT -1-A), San Francisco medical Report. Page  
3 32, highlighted Area's. While Plaintiff was talking  
4 to triage and they said "Patient denies Urgent care  
5 of chronic injuries". That is not how they stated  
6 the question. Triage said "Does Plaintiff have any  
7 life threatening injuries." IN which Plaintiff stated  
8 "NO". ALSO In this exhibit -1.A triage is saying  
9 in highlighted Area that Plaintiff was being  
10 resistive, and combative with custody. But Plaintiff  
11 was not as shown in (EXHIBIT -1.C), San  
12 Francisco Medical Report, highlighted area." Per  
13 Lt. Daggs client's charges are dropped" AND  
14 (EXHIBIT -1) DISPOSITION SHEET. OFFICER GUTIERREZ  
15 has broken the 14th AMENDMENT BY MEDICAL NEGLECT.

#### 16 CHARGES: EXCESSIVE FORCE BY

17 OFFICER GUTIERREZ #1928

18 (1). OFFICER Gutierrez #1928 lied as shown in  
19 above litigation page 1. Lines 23-28 — Page 3  
20 Line 1. OFFicer Gutierrez #1928 Declaration being  
21 in hindsight does not really remember what happened  
22 OFFicer Gutierrez #1928 IN (EXHIBIT -1.P),  
23 Declaration of EDWARD GUTIERREZ IN SUPPORT OF  
24 Defendant's motion for Summary Judgment Document 10-18  
25 Filed 05/11/22, Page 3, Line 3, "Plaintiff was placed  
26 in a holding cell to wait for the booking process".

27 Then Page 3 Line 14 "Plaintiff was then placed in a  
28 safety cell".

In Support of Documented Pleadings  
FOR EVIDENCE AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR OPPOSITION TO MC  
SUMMARY JUDGMENT

Page 5 of 15

1 (1.a) These TWO cells were actually one  
2 cell. The "Safety Cell". So when Officer  
3 ~~EDWARD GUTIERREZ #1928 (EXHIBIT. I.P.)~~  
4 Declaration of EDWARD GUTIERREZ IN SUPPORT OF Defendant's  
5 Motion For Summary Judgment, Document 70-8, Filed:  
6 05/11/22, Page 3, Line 4 - 6, Highlighted areas.  
7 " I applied a rear wrist lock on Plaintiff with one,  
8 hand while I pat searched him with my other hand.  
9 " I applied only enough pressure to be able to detect  
10 any resistance".

11 This excessive force that Officer Gutierrez  
12 #1928 Did to Plaintiff happened in the Safety cell.  
13 Officer Gutierrez #1928 lied as explained in this  
14 above litigation page 1 Lines 23-28 — Page 3.  
15 Line 1. And being in hindsight with Defendant,  
16 Gutierrez #1928, Declaration. Defendant really does not remember.

17 Defendant, Officer Gutierrez #1928 committed  
18 Excessive force when (EXHIBIT. I.P.), page 3, lines  
19 4-6 "I applied a rear wrist lock on Plaintiff with  
20 one hand while I pat searched him with my other.  
21 while the defendant Edward Gutierrez  
22 #1928 was Doing this to my right hand, wrist,  
23 fingers OFFICER EDWARD Gutierrez #1928  
24 contributed to the swelling of my whole  
25 right hand AND ALL FINGERS ON MY right hand.  
26 Pushing my hand, WRIST fingers passed the  
27 limits that it will bend. Injuring Plaintiff.  
28 As explained in Summary.

1 Judgment; Page 6 Line 1-3/with  
2 EXHIBIT -1-G, Valley Care Pleasanton medical documents,  
3 Page 7, OF: (SUMMARY JUDGMENT),  
4 Lines 20-23 "Gutierrez #1928 I hold responsible  
5 for excessive force also because he was right beside Brian  
6 Mendoza #2324 bending my hand, wrist and finger's.  
7 Causing Injury. swelling of hand's, wrist's and finger's.  
8 EXHIBIT -1.G, Highlighted Area, of Valley Care Pleasanton  
9 medical documents. AND in (SUPPLEMENTAL  
10 + SUMMARY JUDGMENT), Highlighted Areas with (EXHIBITS  
11 ((4))(1)), (1)). Plaintiff was handcuffed and on his stomach.  
12 ((4))(1)) Earlier in the day officer Gutierrez in  
13 the building ground security office at the main library, as  
14 stated in (Exhibit -1.G), Amended Complaint, Document 20, Filed  
15 08/03/20, page 5, Lines 6-14, Highlighted Area, Pushed me  
16 to the bench and floor twisting my wrist's, causing  
17 Plaintiff Pain and suffering. And my wrist to swell even more.  
18 ((4))(1)) (EXHIBIT -1.P) Declaration of EDWARD GUTIERREZ  
19 IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY  
20 Judgment Document 70-8 Filed: 05/11/2022, page 2  
21 Lines 4 "When I arrived at the security office", Lines 13-14 "I applied  
22 a rear wrist lock on Plaintiff with one hand while I pat searched  
23 him with my other hand. I applied only minimal pressure."  
24 So here again earlier in the day officer Gutierrez  
25 #1928 is applying pressure to my wrist, injuring  
26 Plaintiff. So lets just let the medical report for  
27 Valley Care Pleasanton, Exhibit -1.G, 1.H AND Santa  
28 Rita Jail Medical, Exhibit -1.I, AND ZUCKERBERG SAN  
IN SUPPORT OF DOCUMENTED PLEADINGS  
FOR EVIDENCE AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR OPPOSITION TO ML  
SUMMARY JUDGMENT

1 Francisco General Hospital, Exhibit - I-J, decide  
2 the extent of the injuries caused by officer  
3 GUTIERREZ # 1928 applying pressure to my wrists,  
4 AND Violating the 4th AND 8th AMENDMENTS BY  
5 EXCESSIVE FORCE. BY INJURING Plaintiff. Swelling  
6 OF hand's wrists and fingers. Both excessive  
7 force's happened while plaintiff was handcuffed and on his stomach.

## OBJECTIONS

9  
10 (1). Plaintiff object to any witnesses to  
11 testify that was a defendant in this case; because of  
12 prior prejudice of excessive force charges.

13 (2). Plaintiff object to any witness to testify  
14 that was not present at the time of the incident.

15  
16 (3). Plaintiff object to the defence using  
17 any litigation that has to do with dropped  
18 charges of RESISTING Arrest, OBSTRUCTING/Delaying  
19 Peace officer, Interfering with a public agency,  
20 Disturbing the Peace, Possession of a weapon in  
21 court house/public building. Per EXHIBIT - 1 .

## IN SUPPORT OF (EXHIBIT - 1 - M) CARPENTERS DETAIL HOURS

22  
23  
24 These Exhibits is to support (EXHIBIT - 1 - M),  
25 Carpenters Detail list with verification of  
26 employment from 2019 to previous employment of 2017.

(EXHIBIT-A), Verification of EMPLOYMENT	
1	DRTWALL LATHERS LOCAL UNION # 9068, WORK
2	Referral Start Date: 4/30/2019, Employee:
3	IRONWOOD COMMERCIAL BUILDERS, WAGE: \$8.40 CHECK
4	STUB PAY DATE: 4/30/2019. DRYWALL LATHERS
5	LOCAL UNION # 9104, WORK Referral Start Date:
6	9/6/2018, Employee; Perfect MAKE CONTACTING,
7	INC, WAGE: \$8.40, W-2 from 2018 EARNINGS SUMMARY,
8	EMPLOYER: R.F.J/MIEISWINKE COMPANY: PAYROLL
9	Start Date: 07/09/2018, W-2 for 2018,
10	Carpenters LOCAL UNION # 33, WORK
11	Referral Start date: 7/19/2018, Employee:
12	CAHILL CONSTRUCTION SERVICES, WAGES: \$8.40,
13	CHECK STUB DATE: 7/23/18;
14	EMPLOYER: TUTOR PERINI CORPORATION: MONTH
15	WORK DATE: 06/01/2018, W-2 for 2018.
16	EMPLOYER: BJOFR CONSTRUCTION CO. INC; MONTH
17	WORK DATE: 06/01/2018, CHECK STUB PAYDATE:
18	6/01/2018. REGULAR PAY DATE: \$8.40
19	Carpenters LOCAL UNION # 33, WORK
20	Referral Start Date: 5/18/2018, Employee:
21	Bjork Construction Co. Inc., Wages: \$8.40,
22	W-2 for 2018.
23	EMPLOYER: BOMEI CONSTRUCTION CO.: WORK
24	MONT: 01/01/2018, (CHECK ACTIVITY REPORT),
25	PAY PERIOD ending: 1/2/2017, EMPLOYEE: BOMEI
26	CARRIERS LOCAL UNION # 33, WORK Referral
27	START DATE: 1/2/2017, EMPLOYEE: BOMEI
28	CONSULTATION CO: WAGE: \$8.40, CHECK ACTIVITY
29	IN SUPPORT OF DOCUMENTS FILED Pleadings Page 9 of 15

1 Report), pay period end Date : 12-07-2017-  
2 12-21-2017

3 Carpenters LOCAL UNION #22, WORK  
4 Referral Start Date : 11/15/2017, Employer :  
5 Tutor Perini Building Corp., Wages : 46.40  
6 Check Date : 11/17/2017, Refer to Lines 14-16 W-2 2017.  
7 CARPENTERS LOCAL UNION #22, WORK Referral  
8 Start Date : 11/1/2017, Employer : I.S.E.C INC.,  
9 Wages : 46.40, Check Stub Date : 11/06/17.

10 EMPLOYER : DOME CONSTRUCTION : MONTH  
11 WORK Date : 10-01-2017 — 11-01-2017, check  
12 Stub Pay Date : 10/5/2017 — 11/9/2017,  
13 Pay Rate : 46.40.

14 Carpenters Local Union #22, Work Referral  
15 Start Date : 9/11/2017, Employer : Tutor Perini  
16 Building Corp., Wages : 46.40, W-2 2017.

17 EMPLOYER : DOME CONSTRUCTION : MONTH  
18 WORK Date : 09/01/2017 CHECK STUB Pay date : 9/28/  
19 2017, Pay rate : 46.40.

20  
21 EXHIBIT  
22 (2.a) MORE EMPLOYMENT HISTORY  
23 EXHIBIT

24 EMPLOYER : I.S.E.C. INC., CHECK Date : 07/28/17,  
25 : Period End : 07/23/17 — CHECK Date : 08/30/17,  
26 : Period End : 08/27/17, RATE : 46.40.

27 EMPLOYER : DOME CONSTRUCTION CHECK STUB  
28 PAY Period 5/29/2017 - 7/16/2017, RATE : 44.40 -

IN SUPPORT OF DOCUMENTED PLEADINGS  
FOR EVIDENCE AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR OPPPOSITION TO MC  
SUMMARY JUDGMENT.

1 46.40.

2  
3 MEDICAL REASON FOR OUT OF POCKET  
4 EXPENSES.

5 (1). (Exhibits-2) Verification of employment  
6 is to show the Judge and Jury that I am a  
7 established Journeyman Carpenter and that because  
8 of this injury from Excessive force by Officer  
9 Gutierrez the Plaintiff was not able to work as a  
10 union Carpenter from 2-26-2019 till 4-26-2019.  
11

12 Officer Gutierrez false charges of resisting etc.  
13 Reason for Out of Pocket Expenses.

14 Because of Officer Gutierrez charging the  
15 Plaintiff with resisting arrest and other charge's.  
16 Starting the ball rolling to try and get Plaintiff  
17 violated with the Probation office. For charges  
18 that were dropped. (Exhibit-1). The Disposition  
19 Sheet of All charges Dropped. Plaintiff spent  
20 (Exhibit-1.L), Custody Activity cen. 9389699 PFN:  
21 ULW-491, 25 days in custody at Santa Rita Jail  
22 until the Probation office was notified that  
23 the charges were dropped. Going to jail Cost  
24 Plaintiff getting kicked off of the ready to go +0  
25 work list. Making Plaintiff start all over at the  
26 Union Hall Ready to go +0 WORK list. Delaying  
27 the process for Plaintiff to work again with  
28 Carpenters union for at least 2 months. So Plaintiff

In support of Documented Pleadings  
For evidence AND EXHIBITS FOR IT Page 11 of 15  
AND EXHIBITS FOR OPPOSITION MC  
TO SUMMARY JUDGMENT

1 missed out on about 2 month of work. So  
2 Plaintiff holds Officer Gutierrez responsible for  
3 half of the Out of pocket expenses as a Journeyman  
4 Carpenter in 2019 Plaintiff Made \$ 48.40 hour  
5 with the Union going back 2 years of employment.  
6 So in a 40 hour work week Plaintiff would make:  
7 \$1,936.00. Plaintiff was out of work for 2 months  
8 So there is 4 weeks in a month. So for 1 week  
9  $1,936.00 \times 8 \text{ weeks} \text{ for } 2 \text{ months of missed}$   
10 work =  $15,488.00$ . Half of  $15,488.00 = \underline{\underline{7,744.00}}$ .

11  
12 (3). The Court can call the Phone Numbers  
13 on the Dues Card, (EXHIBIT-1-K), Page 51-3  
14 to verify these documents and info.

15

16

17

## CLOSING STATEMENT

18 Because of this excessive force Plaintiff  
19 was in pain and suffered for about 3 months.  
20 from (R.D.M), Rupture of Membranes in the hands.  
21 Causing them to swell to twice their size.  
22 Causing Plaintiff injury and missing work for  
23 2 months.

24 The Problem with Officer EDWARD  
25 Gutierrez # 1928 statement's is that there is no  
26 narrative original Police report on the incident's  
27 with officer Edward Gutierrez. So his Declaration  
28 is in hindsight of a couple of years. So that he can

1 I look at Plaintiffs' complaint and write all around the  
2 excessive force. And lie. But EDward Gutierrez did  
3 have his hands on plaintiffs wrists, fingers, hands  
4 and does not remember what happened exactly.  
5 Because of this couple of year gap between  
6 incident and Declaration. And it is just the Officer's  
7 way of avoiding excessive force. So since EDWARD  
8 Gutierrez applied pressure to my wrist's, finger's,  
9 hand's let's let the hospital records tell the extent  
10 of the excessive force/ handcuff injuries. Violating  
11 the 4th, 8th and also the 14th Amendment  
12 for Medical Neglect. Swelling Plaintiff's hand's,  
13 wrist's and finger's.

## 15 RELIEF

16 (1). 2 COUNTS of EXCESSIVE Force.

17 (2). 1 count of Medical Neglect .

18 (3). \$ 60,000 in damage for 2 counts  
19 of EXCESSIVE force. Causing injury to Plaintiff.  
20 AND for Pain and SUFFERING.

21 (4). \$ 10,000 for Medical Neglect From San  
22 Francisco Jail Medical Triage and pulling me away  
23 and not letting me get Medical treatment for MY!  
24 hand's, wrist's, finger's injury .

25 (5). \$ 7,744.00 For out of Pocket EXPENSES

IN SUPPORT OF Documented pleadings  
FOR Evidence AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR OPPOSITION TO mc  
SUMMARY JUDGMENT

1 In monetary damages . For Plaintiff being injured  
2 from excessive force and not being able to work.  
3  
4 OR Because The plaintiff got arrested for false  
5 charges of resisting arrest etc And was sent to jail  
6 for a probation violation that got dropped . Because of  
7 these false charges Plaintiff had to start all over  
8 at the bottom of the ready to go to work list .  
9 Causing me to be out of work for 2 more extra  
10 months in my normal trade as a UNION Journeyman  
11 Carpenter .  
12

13 (6) . Pay for plaintiffs' filing fee .

14 (7) . Restraining order on the guilty defendant  
15 that caused Excessive Force / Medical Neglect .  
16

17 (8) . Removed from the duties to protect and  
18 serve the community as a police officer /  
19 security guard etc . Because of Excessive force /  
20 Medical Neglect .

21 The plaintiff is suing in official capacity  
22 and individual capacity .  
23

24 OR

25 A Default Judgment which is set out  
26 in a different Motion for not Preserving  
27 Electronically Stored Information . F.R.C.P.  
28 Rule 37(e) .

IN SUPPORT OF Documented Pleadings | 14 OF 15  
FOR EVIDENCE AND EXHIBITS FOR TRIAL  
AND EXHIBITS FOR MC OPPOSITION TO  
SUMMARY JUDGMENT

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3 Date: ~~6-06-2024~~ mc 12-13-2024  
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IN SUPPORT OF DOCUMENTED PLEADINGS FOR Page 15 of 15  
~~EVIDENCE AND EXHIBITS FOR TRIAL~~ mc  
AND EXHIBITS FOR OPPOSITION TO  
SUMMARY JUDGMENT

DECLARATION OF  
MICHAEL LUCKERT  
IN SUPPORT OF  
OPPOSITION TO  
SUMMARY JUDGMENT

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CASE NO. 19-CV-08204-PJH

THE PAGES IN THIS DECLARATION ARE  
HIGHLIGHTED WITH A \* HIGHLIGHTED  
WHOLE PAGE AT THE BOTTOM OF EACH  
PAGE.

PLEASE READ

1 Michael Luckert  
2 391 ELLIS ST, San Francisco, CA 94102  
3 email: michaelluckert1@gmail.com  
4 707-803-3836  
5 Attorney in pro-se: Michael Luckert

6 UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA

8 Michael Luckert  
9 Plaintiff,  
10 VS.

11 San Francisco Police Officer's:  
12 D. SMITH #2275; GUTIERREZ #  
13 1928; BRULE #2005; ESPIRITU #  
14 1952; MENDOZA #2324; ANTHONY  
15 P. OCHOA, Security Guard.  
16 Defendants.

Case No. 19-cv-08204-  
PJH

DECLARATION OF MICHAEL  
LUCKERT IN SUPPORT OF  
OPPOSITION TO SUMMARY  
JUDGMENT

17  
18 I, Michael Luckert, declare as follows:

19 (1). I am a Journeyman Carpenter with local 22 in San Francisco,  
20 CA. But at this time I am a incarcerated inmate at Santa  
21 Rita County Jail. I am a Plaintiff in this 1983 Civil Suit  
22 and am representing myself in pro-se status. In my Amended  
23 Complaint I am making statement's that are fact. In  
24 ~~Opposition~~<sup>ML</sup> to Summary Judgment I am making statement's that  
25 are Fact. Through out this ~~Opposition~~<sup>ML</sup> of Summary Judgment  
26 their are documents that I received through Discovery.  
27 The statements that I make with these document's are fact.  
28 Facts that would be admissible in evidence.

DECLARATION OF MICHAEL LUCKERT | Page 1 of 2

IN SUPPORT OF ~~Opposition~~<sup>ML</sup> TO SUMMARY

JUDGMENT ~~Opposition~~<sup>ML</sup> TO SUMMARY JUDGMENT

\* HIGHLIGHTED WHOLE PAGE

1 These facts are of my personal knowledge, and I could  
2 and would testify competently thereto if called up on  
3 to do so.

4  
5 I declare under penalty of perjury under the laws  
6 of the UNITED STATES That the foregoing is true and  
7 correct.

8 EXECUTED ON JUNE 4th, 2022 at Dublin, CA.  
9

10 Signature of Attorney in pro-se: Michael Luckert  
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DECLARATION OF MICHAEL LUCKERT, Page 2 OF 2  
IN SUPPORT OF OPPOSITION TO M.L. Opposition to Summary  
MSUMMARY Judgment

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OPPOSITION TO  
SUMMARY  
JUDGMENT

CASE NO. 19-CV-08204-PJH

Some Pages say \* Highlighted Whole  
Page at the bottom of the Page.

Please Read them and the highlighted  
Areas of Summary Judgment.

1 Michael Luckert  
 2 391 ELLIS ST, San Francisco, CA 94102  
 3 email: ~~Michael Luckert~~<sup>ML</sup> michaelluckert1@gmail.com  
 4 Attorney in pro se: Michael Luckert

5  
 6 UNITED STATES DISTRICT COURT  
 7 NORTHERN DISTRICT OF CALIFORNIA

8 Michael Luckert

9 Plaintiff,

10 VS.

11 San Francisco Police

12 OFFICERS: D. SMITH #2275;

13 GUTIERREZ # 1928; ESPIRITU

14 # 1952; MENDOZA #2324;

15 ANTHONY P. OCHOA, Security

16 GUARD; BRULE # 2005.

17 Defendant's.

18 I. INTRODUCTION AND STATEMENT OF FACTS

19 To the honorable Judge of the Court. What we have

20 is a citizen trying to visit the library and got

21 assaulted by the cops, and then again at County Jail

22 I, Michael Luckert got assaulted physically and sexually.

23 And also some emotionally; because their mentality was

24 that I assaulted a librarian employee. The fact is all

25 charges were dropped that they had on me. As shown in

26 a EXHIBIT IN MY AMENDED COMPLAINT. SO to rely on some charges,

27 "For Factual and Admissible evidence", that were dropped

28 would not be Justice. So I plead with the court to rely on

Page 1 of 12

OPPOSITION TO SUMMARY JUDGMENT

\* Highlighted \*

1 Facts. And the Federal Rules of Civil Procedure.  
2

## 2 II. ARGUMENTS AND POINTS OF AUTHORITY

3 (A). Plaintiff should be entitled to a Judgment in his  
4 favor for EXCESSIVE ~~Force~~<sup>ML</sup> FORCE AND SEXUAL ASSAULT on  
5 inmate. Which fit under CRUEL and UNUSUAL PUNISHMENT  
6 INFILCTED. Which is the 8th Amendment. I will be proving  
7 this in the documented admissible evidence. And which  
8 would be proven in Video Surveillance. Which the defence so  
9 readily destroyed. Judgment in my favor should be ruled.  
10 Hence F.R.C.P. Rule 37(e), Failure to preserve electronically  
11 stored information. A 1983 Civil suit you have 2 years to  
12 file. Therefore the Video Surveillance should be preserved  
13 for 2 years and more once the defence knows about the  
14 electronically stored information that could be used as  
15 evidence in a excessive force case.

16 (B). Also I did not refuse any medical services. I was  
17 not given the choice to see a medical profession for my  
18 injuries. And they did not identify themselves as a medical  
19 professional that could help with my injuries for 3 days.  
20 They asked me if my injuries ~~were~~<sup>ML</sup> were life threatening.  
21 In which they made that decision for me. They also said I could  
22 not have any medication for my injuries until I get done  
23 with the PSYCH. When the officers took me from the  
24 library to San Francisco County Jail they deprived me of seeing  
25 a Medical Professional for my injuries. Keeping me in pain and  
26 making me suffer from my injuries. Like I explained in my  
27 AMENDED COMPLAINT. This is a Violation of the 8th Amendment  
28 and 14th Amendment. The 8th Amendment; CRUEL and UNUSUAL

\* Highlighted whole page Page 2 of 12  
OPPOSITION TO  
IN OPPOSITION TO SUMMARY JUDGMENT

1 punishment inflicted. The 14th Amendment: No state shall  
2 make or enforce any law which abridge the privileges or  
3 immunitiess of citizens of the UNITED STATES; nor shall  
4 any state deprive any person of life, liberty or property,  
5 without the due process of law.

6 So is what I am trying to say here is I have a  
7 right and liberty to see a doctor for my injuries. They  
8 denied me that right & keeping me in pain and making me  
9 suffer. Video surveillance and EXHIBIT 1. will give the  
10 court some idea of what <sup>the</sup> time and date that  
11 I actually did get out of SAN FRANCISCO COUNTY JAIL.

12 Violating my due process of law to get medical attention  
13 for my injuries. Violating the 14th Amendment. The  
14 defendants also violated the F.R.C.P. Rule 37(e), Failure  
15 to Preserve Electronically Stored Information which is video  
16 surveillance. On 2-28-2019 they put me in a release cell.  
17 I got the nurses attention and the nurse gave me something  
18 for my injuries. Then they released me. All this would be proven  
19 through video surveillance. Which they destroyed. ~~and is~~

20 (C). The San Francisco Medical report starts from Page  
21 0000032. As shown in EXHIBIT-1.A.

22 Dont Medical Reports usually start from Page 000001. This  
23 makes me think the defendant's and there attorney are  
24 hiding some medical facts. I, Michael Luckert, would like the  
25 full Medical Report from san Francisco Medical ~~Rec~~ Records JAIL  
26 Medical Records.

27 (D). The Defendant's use of force was not reasonable;  
28 because I was not resisting arrest and all charges were dropped.

1 (I). And the fact that they injured me and I had  
2 to go to the hospital. As shown in EXHIBIT 1 G,  
3 (Valley Care Pleasanton)

4 (E). The Santa Rita Jail Medical Report would show  
5 the longivity of my injuries and the fact that I had to  
6 do physical therapy for a time to help cure my injuries.  
7 With injuries and pain and suffering lasting at least 18  
8 months. And to this day I still get cramps in my left arm.

9 (I). These Santa Rita Medical Records were at one time sent  
10 to me through discovery at a address on the street. But then  
11 I moved and did not get a chance to use them yet for  
12 ADMISSIBLE EVIDENCE; because I lost them in the move.

13 IF through discovery Santa Rita Medical Records sent me  
14 Medical Records they would also have to show the court  
15 that they complied with discovery by sending the courts a  
16 copy also. So I am asking in the interest of justice con the  
17 court send me my medical records from Santa Rita Jail  
18 Medical Records. Since I am a incarcerated inmate and  
19 can not obtain them myself. OR ORDER SANTA Rita Medical  
20 Records to resend them to me at my present address here  
21 at Santa Rita Jail.

22 (F). Under the 4th Amendment these's officer's willful  
23 wanton behavior was Malicious and Sadistic and they did not use  
24 reasonable force. I did not assault anyone, or resist arrest, or brandish  
25 a legal pocket knife. Or assault officer's. All charges were dropped.  
26 And I Think the only reason they were dropped is because of  
27 Video Surveillance / body camera's. And because there was no  
28 physical injury or verbal assault to the librarian. This was

page 4 of 12

NO OPPOSITION <sup>mc</sup> TO SUMMARY JUDGMENT  
OPPOSITION <sup>mc</sup> TO

1 A private person instigating arrest for false imprisonment. These  
2 Policeman lied in there Police report and in hindsight A attempt to  
3 cover there tracks of Excessive force and sexual Assault. Violating  
4 the 4th, 8th and 14th amendments. This arrest was unlawful.  
5 (1) Under the 4th Amendment these officer's : D. SMITH #2225;  
6 security ground Patrol Anthony P. Ochoa; Espiritu #1952; Brule  
7 #F2005 committed excessive force by using force that was  
8 unreasonable. Because I was still cuffed and not resisting  
9 arrest. And they caused me injury as shown in Valley Care Medical  
10 report Exhibit 1. 6 swelling of hands, wrist's and finger's.

11 (2.) Gutierrez #1928 and Mendoza # 2324 as talked about  
12 in my Amended Complaint and in this opposition to Summary  
13 judgment used illegal search and seizure. I was not resisting arrest.  
14 I was still in cuff's and in a cell and had already been searched  
15 twice. This is when ~~Gutierrez #1928~~ <sup>MENDOZA #2324</sup> sexually Assavited me. He  
16 ripped off my pants and used his hand/with soiled clothes and touched.  
17 my butthole. Making a little penetration. So this went from illegal  
18 search and seizure to excessive force to sexual Assault. Excessive  
19 by bending my finger's back until they popped. causing punctate  
20 hyperdensity in the distal left thumb. Mendoza # 2324 I hold  
21 responsible for excessive force also; because he was right  
22 beside ~~Gutierrez #1928~~ bending my hand, wrist and finger's <sup>me</sup> both  
23 causing injury. Swelling of hands, wrist's and finger's. Both  
24 injuries as seen in the Valley Care Medical Report Exhibit 1.6.

## 25 OBJECTIONS.

26 I object to the defendant's and there Attorney using any  
27 documents, declarations or statement's referring to charges  
28 that have already been dropped as Admissible Evidence.

1                   ADMISSIBLE EVIDENCE OF STATEMENT'S OF  
2                   FACT'S AND DOCUMENTS OF ADMISSIBLE  
3                   EVIDENCE

4                   (A.) ADMISSIBLE EVIDENCE IN CHRONOLOGICAL ORDER

5                   (1). Amended Complaint, which is with Documents Filed.  
6                   (2). In EXHIBIT-1.A San Francisco Jail Medical Report, in the  
7                   highlighted area we will find first off that this Medical  
8                   Report starts at Page 000032. Dont Medical report's usually  
9                   start at Page 000001. This makes me think that the  
10                  defendence and these attorney are trying to hide some  
11                  Medical facts. I would like the Full Medical Report.

12                  (3). In EXHIBIT-1.B, Page 1, (San Francisco Jail Medical Report),  
13                  in highlighted area, "looking at his hands and talking to them after  
14                  interview. Reported voices tell him he "needs to communicate"  
15                  with writer and that all people need to communicate".

16                  This exhibit should reveal to any jury and to the Judge  
17                  that I am having problems with my hands. And the injuries  
18                  as at VALLEY MEDICAL CARE PLEASANTON EXHIBIT-1.G, are  
19                  connected.

20                  (4). In EXHIBIT 1.B, Page 2, San Francisco Medical Report in high-  
21                  lighted area, "Appeared to talk to self and hand."

22                  This EXHIBIT should reveal to any jury and to the judge  
23                  that I am having problems with my hands, and the injuries  
24                  *ML* injuries that I had with my hand, finger, wrist at Valley Care  
25                  Pleasanton EXHIBIT-1.G, are connected.

26                  (5). In EXHIBIT-1.C San Francisco Medical Report in highlighted  
27                  area, "per LT. Daggs client's charges are dropped."

28                  This exhibit should reveal to any jury and to the Judge that

1 all charges were dropped.

2 (6) EXHIBIT-1.D, San Francisco medical Report in highlighted  
3 area, "02/27/19 19:10" "Discharge".

4 This exhibit shows that I was still in the Psychiatrist care  
5 and was being discharged on 02/27/19 at 19:10 hours. And was  
6 still in the safety cell and not released yet until 02-28-19.  
7 Violating the 14th Amendment. Keeping me in pain and making me  
8 suffer for 3 days without any medical help for my injuries. As  
9 discussed in ~~Opposition to Summary Judgment~~ Judgment page 2,  
10 line 28 - through - Page 3, Line 19.

11  
12 (7) EXHIBIT-1.E, Declaration of Brian Mendoza, Page 5 of 5.  
13 This exhibit states in the highlighted area "The I/M  
14 (INMATE), complained about his hand hurting.

15 This should reveal to any jury and to the Judge that  
16 I am having problems with my hands. And that my injuries  
17 at Valley Care Medical Exhibit-1.G are connected. Being  
18 the extent of the injuries are similar to the excessive  
19 force in my Amended Complaint. And in This Exhibit-1.E of Me  
20 Complaining about my hand hurting.

21  
22 (8) (A) As explained in my Amended Complaint the names at  
23 anytime in this excessive force case my change or switch  
24 place's. But the fact's of what happened does not change.  
25 ~~(A)~~ So upon further investigation And in my Amended Complaint  
26 ~~Deputy Mendoza # 2324 and Gutierrez # 1928 are to change~~  
27 ~~places. So now in my Amended Complaint it should read in place~~  
28 ~~of Mendoza # 2324 it should read Gutierrez # 1928 And in~~

~~In Opposition to~~ ~~Opposition to~~ SUMMARY JUDGMENT Page 7 of 13 12

ML

1 Place Mendoza #2324 it would read GUTIERREZ #1928 ML  
 2 Do to EXHIBIT-1F in the highlighted area, ~~GUTIERREZ~~  
 3 is the one that stripped my soiled clothing off of me  
 4 and touched my butthole with his hand so hard it  
 5 almost felt like rape. This is SEXUAL ASSAULT. AS  
 6 explained in my Amended complaint officer ~~GUTIERREZ #1928~~  
 7 is also the one that bent my finger's back until they  
 8 popped. Ripping my finger's out of joint causing me extreme  
 9 pain; and more pain and suffering. Making me have to do  
 10 physical therapy for my finger's. A injury lasting 18  
 11 months. And still today get cramps in my left arm.

12 (b.) All of this excessive force and sexual assault would  
 13 be on Video <sup>ML</sup> Surveillance (body camera's); but they so  
 14 readily destroyed. Judgment in my favor should be ruled, Hence  
 15 F.R.C.P. Rule 37(e), Failure to Preserve Electronically stored  
 16 information. And because of my injuries at Valley CARE  
 17 Pleasanton EXHIBIT-1G.

18  
 19 (9). EXHIBIT-1G, Valley Care Pleasanton

20 (a.) (Page 6) In highlighted AREA "3/1/2019 1:00 pm"  
 21 This is the date and time I was seen for X-rays.  
 22 In all reality I did not get out of the San Francisco  
 23 County Jail until 2-28-2019. Video surveillance would  
 24 prove that. So between the date and time I was released  
 25 it was only about 24 hour or less until I seen a  
 26 doctor. "XR Hand 3 views right"; "49 years of age male,  
 27 Pain and swelling following trauma"; "3 views of bilateral  
 28 hands"; "There is regional soft tissue swelling. There is a

1 PUNCTATE hyperdensity in the distal left thumb. May  
2 represent external artifact versus foreign body?

3 These highlighted areas show that I was in pain and  
4 my hands were swollen. And that my finger was  
5 hyper extended, pulled out of joint. And that some other  
6 person could of caused this injury. These injuries  
7 are consistent with the San Francisco Police defendants  
8 and there use of force and my hand injury. As reported  
9 in the declarations of every defendant.

10 (b) (Page 8): In highlighted area, "XR Hand 3 Views left"  
11 RadioGraphic Examination of the Bilateral hands. This  
12 diagnostic outcome is the same as (a) page 6.

13 (c) (Page 10): In highlighted area, "contusion of hand,  
14 unspecified laterality." This means that my hands were bruised.

15 DML  
16 (d) (Page 11): In highlighted area, "Hand Swelling, Patient  
17 reports injury to bilateral hands by PD, both hand are swollen  
18 and Patient reporting pain diffusely + CSM, + pulses"

19 This Medical Page shows that my hands were swollen.  
20 Meaning both hands. And that I was in a lot of pain  
21 and that my hands were throbbing all over.

22 (e) (Page 13): In highlighted area, "Both hands are  
23 swollen and the dorsal aspect has some excoriations  
24 on the fingers." This medical document says my hands  
25 are swollen and my fingers are severely swollen and  
26 damaged.

27 (F) (Page 14): In highlighted area, "XR Hand 3 Views left  
28 final result = " punctate hyperdensity in the distal left

1 thumb may represent external artifact versus foreign  
2 body." XR Hand 3 Views right final Results. (same results  
3 as XR Hand 3 Views Left). (a) Page 6:

4 (g.) Page 15: In highlighted area, "Contusion of hand,  
5 unspecified laterality. Follow up: Your doctor"

6 This Medical document is saying that my hands were  
7 bruised and to follow up with my doctor.

8 (h.) Page 16: In highlighted area, "both hands are swollen  
9 and Pt reporting pain diffusely + csm, + pulses."

10 This Medical Report shows that both hands are swollen  
11 and I am in a lot of pain.

12 (i.) Page 18: In highlighted area, "you feel down/depressed,  
13 or hopeless?" Yes

14 After this excessive force from the defendant's I was  
15 depressed and felt hopeless; Because I just got assaulted by  
16 the Police and did not think I could do nothing about them  
17 their actions. Hopefully that is not true.

18 (j.) Page 20: In highlighted area, "Home Medication  
19 given (Ibuprofen (Motrin) tablet 600 mg).

20 This Medical document was a relief. Because finally  
21 they gave me something for the pain. Motrin 600. Not like  
22 San Francisco Jail Staff/Police making me suffer and keeping  
23 me in pain for almost 3 days. Violating the 14th Amendment.

24 (k.) Page 21: In highlighted area, "The homeless Patient  
25 has been referred to a source of follow-up care, IF  
26 medically necessary: Yes"

27 This Medical documentation was necessary. I went  
28 to Santa Rita Jail and needed something for pain and I

also needed physical therapy to recover from my injuries.

(L) Page 21 and Page 22, In highlighted area, XR Hand

3 Views Left Final results, RADIOGRAPHIC EXAMINATION OF  
THE BILATERAL HANDS 3/1/2019 12:55, Clinical History:  
49 year of age, male, pain and swelling following trauma. 3  
views of the bilateral hands. FINDINGS: There is regional  
soft tissue swelling. There is a punctate hyperdensity in the  
distal left thumb. Punctate hyperdensity in the distal left  
thumb may represent external artifact versus foreign body.

(M) page 22 and 23, In highlighted area "XR Hand 3 Views Right"

Final Results, Radio Graphic Examination of the BILATERAL  
HANDS 3/1/2019 12:55. Same results and findings as (XR Hand  
3 Views Left. Page's 21, 22)

These medical document's, final results, shows that  
my hands are swollen and that my thumb was situated  
away from the point of attachment to the hand. Another  
words hyperextended. And that some other person could of  
done this. Like San Francisco Police officers.

#### CLOSING STATEMENTS OF ADMISSIBLE

#### EVIDENCE

(1). These's officer's/ defendant's have been working under  
the color of state/government officials and yet they  
choose to break the law. Negating their immunity.  
They used excessive force with maliciousness and also  
were being sadistic. After all it could not of been that  
I was resisting Arrest; because those charge's were dropped.  
As well as the Assault charge's on the librarian. And I am sure  
that the only thing that saved me from these charge's is the

~~\* Whole Page Highlighted~~

1 Video surveillance. So what did motivate them to act  
 2 in a malicious and sadistic manner. The charge's  
 3 themselves of assault on a librarian. So it was on the  
 4 defendant's minds that I assaulted a librarian. So they  
 5 decided to punish me. Treat me different than a regular  
 6 citizen. Using wanton behavior. This behavior became  
 7 sadistic when they started to pass the word onto every  
 8 officer and then every officer in this case prejudged me.  
 9 By not listening to anything I had to say. It is so bad  
 10 that they could not use their own judgment and treat me  
 11 like a normal patron. Instead they prejudged me and beat  
 12 the crap out of me, (Over and over) - Violating the 8th, 4th  
 13 Amendment. Video Surveillance would prove this excessive  
 14 Force and sexual Assault. And I am sure that you are  
 15 already aware of the defendant's and there lawyer  
 16 destroying the body camera footage as well as the Video  
 17 Surveillance. Violating the F.R.C.P Rule 37 (e), failure to  
 18 preserve electronically stored information. As explained in my  
 19 ~~Opposition to~~ Summary Judgment Page 2 line's 7-15. And also  
 20 violated the 14th Amendment by denying me medical care for my  
 21 injuries for 3 days. Violating my due process rights. As  
 22 explained on Page 2 line 16 - through - Page 3 line 19 of my ~~Opposition~~  
 23 ~~ML~~ opposition to ~~Opposition to~~ Summary judgment.

24 ~~ML~~ (2). There will be a supplemental within 14 days of the ~~ML~~  
 25 mailing date of this ~~Opposition~~ <sup>ML</sup> OPPOSITION TO SUMMARY ~~ML~~  
 26 ~~ML~~ judgment for the longevity of the injury and wage's lost. BY ~~ML~~  
 27 ~~ML~~ way of Santa Rita Medical document's. OR through order of ~~ML~~  
 28 the court. ~~ML~~ / Date: 12-16-24 / Pro se Attorney: Michael Luckett ~~ML~~  
~~IN OPPOSITION TO SUMMARY JUDGMENT~~ page 12 of 13 ~~ML~~  
~~ML~~ opposition to ~~Opposition to~~ SUMMARY JUDGMENT

~~\* Whole Page Highlighted~~

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## RELIEF FOR OPPOSITION TO SUMMARY JUDGMENT

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- 12 (1). 2 Counts of Excessive force .  
13 (2). 1 Count of Medical Neglect.  
14 (3). \$ 60,000 in damages for 2 counts of  
15 excessive force . Causing injury to Plaintiff  
16 and for Pain and Suffering .  
17 (4). \$ 10,000 for Medical Neglect from San  
18 Francisco Jail Medical Triage and pulling  
19 me away not letting me get medical treatment  
20 for my hand's , wrist's injury .  
21 (5). \$ 7,744.00 for out of pocket expenses  
22 in Monetary damages . for Plaintiff being injured  
23 from excessive force and not being able to  
24 work . OR Because the Plaintiff got arrested  
25 for false charge's of resisting arrest etc . And  
26 was sent to jail for a probation violation that  
27 got dropped . Because of these false charges  
28 Plaintiff had to start all over at the bottom

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OPPOSITION TO SUMMARY JUDGMENT

PAGE 1 OF 2

1 of the ready to go to work list. Causing Plaintiff  
2 to be out of work for 2 more extra months in  
3 his normal trade as a Union Journeyman Carpenter.

4 (6). Pay for Plaintiff's Filing fee .

5 (7). Restraining order on the guilty defendant  
6 that caused Excessive force/Medical Neglect.

7 (8). Removed from the duties to protect and  
8 serve the Community as a police officer/  
9 security guard etc. Because of excessive  
10 force/Medical Neglect .

11  
12 The plaintiff is suing in official capacity  
13 and Individual Capacity .

14  
15  
16 Date: ~~6-6-2024~~ <sup>12</sup> 12-16-2024

17  
18 Signature of Attorney in Pro-Se :  
19 Michael Luckert

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## RELIEF FOR OPPOSITION TO SUMMARY JUDGMENT

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24 work . OR Because the plaintiff got arrested  
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28 Plaintiff had to start all over at the bottom

---

OPPOSITION TO SUMMARY JUDGMENT

1 of the ready to go to work list. Causing Plaintiff  
2 to be out of work for 2 more extra months in  
3 his normal trade as a ~~Union Journeyman Carpenter~~  
4 (6). Pay for Plaintiffs' Filing fee .

5 (7). Restraining order on the guilty defendant  
6 that caused Excessive force/Medical Neglect.

7 (8). Removed from the duties to protect and  
8 serve the Community as a police officer/  
9 security guard etc. Because of excessive  
10 Force/Medical Neglect .

11 The plaintiff is suing in official capacity  
12 and Individual Capacity.

13 Date: ~~6-6-2024~~ <sup>ML</sup> 12-16-2024

14 Signature of Attorney in Pro-Se :  
15 Michael Luckert

SUPPLEMENTAL  
TO SUMMARY  
JUDGMENT

Pages: (1,4,5,6,7,8,15,16) AND OUT  
OF POCKET EXPENSES FOR GETTING  
KICKED OFF OF THE READY TO  
GO TO WORK LIST. Pages: 17,18,19.

1 Michael Luckert

2 391 ELLIS ST, San Francisco, CA 94102

3 email: michaelluckert1@gmail.com

4 707-803-3836

5 Attorney in pro-se: Michael Luckert

6  
7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 Michael Luckert

10 Plaintiff,

11 vs.

12 O. SMITH #2275; GUTIERREZ

13 #1928; Brule #2005; Espiritu

14 #1952; Mendoza #2324;

15 Anthony P. Ochoa, Security

16 Patrol Officer.

17 Defendants.

case No: 19-cv-08204-  
PJH

N  
SUPPLEMENTAL TO  
OPPOSITION FOR  
SUMMARY JUDGMENT

18 (A). UPON Recommendation of The health  
19 care providers at VALLEY CARE PLEASANTON,  
20 IN EXHIBIT (H), page 21 in the highlighted  
21 area, it says The homeless patient has been  
22 referred to a source of follow up care, if  
23 medically necessary.

24  
25 (1). This follow up was medically necessary  
26 for the following medical documents have to  
27 do with the same injury but more  
28 CONCLUSIVE.

SUPPLEMENTAL TO THE OPPOSITION TO SUMMARY PAGE 1 OF 21  
mc Judgment mc Judgment  
SO opposition For summary Judgment

1 (9). EXHIBIT (I), in highlighted area's  
2 (page 9), it shows that on: 6-13-20 I was still  
3 hurts. I was injured about 16 months ago.  
4 so I am still in pain from this injury  
5 documented by Valley Care Pleasanton  
6 Medical on 3-1-19.

7

8 (C.) SANTA RITA JAIL MEDICAL  
9 INTAKE/ RECEIVING SCREENING  
10 DOCUMENTS

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11

12 (1). EXHIBIT-I.I, Page 15 in highlighted  
13 area's: "LUCKERT, MICHAEL LANDON", Bilateral  
14 hand's tender and swollen" On this day of:  
15 "03-01-2019 at 7:15 pm, "PAIN? YES"  
16 "Pain scale/10: 3".

17

18 (a). These quoted highlighted areas in EXHIBIT-  
19 I. Page 15 says that my hands were  
20 tender and swollen and that I was in pain  
21 on the day of 3-01-2019; because of this  
22 injury done by the San Francisco Police officers.

23

24 (2). EXHIBIT (J), Page 26 in highlighted  
25 area's: "LUCKERT, MICHAEL LANDON", "PAST/  
26 PRESENT MEDICAL PROBLEMS" "CHRONIC  
27 hand" On this day of "09-23-2019 at  
28 1:42 pm".

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Supplemental to the opposition to the  
summary judgment, "to the opposition for  
supplemental to the opposition for  
summary judgment"

(a).These quoted highlighted areas in Exhibit  
page 26 says that I am still having  
problems with my L hand . And obviously  
in Pain because of this injury or I would  
not be seeing a doctor/nurse . Medical # 170485

7 (3) EXHIBIT (J), Page 29 in highlighted  
8 area's; "PAIN? Yes" On this day of: "09-23-  
9 2019 at "1:42 pm", " Pain Scale /10: 3/10".

11 (a), These quoted highlighted area's in EXHIBIT  
12 (J), page 29 shows that I still am in constant  
13 pain on 9-23-2019 from my left hand injury.  
14 Medical # 170485

(4) EXHIBIT-I, page 128 in highlighted areas: "Bilateral hand's tender and swollen"  
Pain? Yes Pain scale 1/10: 3: ON  
This day of 03-01-2019 at 7:15 PM.

20  
21 (a). These quoted highlighted area in EXHIBIT  
22 I, page 128 shows that on 3-1-2019 I was  
23 diagnosed with my hands being swollen  
24 and tender. And that I was in pain on  
25 my hands from this injury.

# INITIAL HEALTH HISTORY AND PHYSICAL EXAM

~~SUPPLEMENTAL TO THE OPPOSITION TO MC~~ PAGES 5 OF 21  
~~SUMMARY JUDGMENT MC~~  
~~SUPPLEMENTAL TO THE OPPOSITION FOR~~  
~~SUMMARY JUDGMENT~~

1 (1). EXHIBIT-I.I, Page 132 in highlighted  
2 area's : " Hospitalizations / Operations ? Yes,  
3 Describe: When ? Where ? (I had hand  
4 pain went to Valley memorial hospital X rays  
5 taken neg), ON This day of : 03 -13-2019  
6 at 2:10 pm".

7  
8 (a). These quoted highlighted areas in  
9 Exhibit-I.I page 132 shows that I  
10 had X-rays done at Valley memorial hospital  
11 and they were negative for any broken  
12 bones ON This day of : 3-13-2019, AND  
13 but as quoted above I was in a lot of pain.

14 (2). EXHIBIT-I.I) Page 134 in highlighted  
15 areas : " MOOD : Depressed ON This day of :  
16 03-13-2019 at 2:10 pm".

17  
18 (a). These quoted highlighted areas in  
19 Exhibit-I.I page 134 shows that I was  
20 depressed because of this injury and that  
21 the Cops beat me up and I did not think  
22 that Justice would prevail for these  
23 excessive force, ON This day of: 03-13-2019

## MEDICAL SICK CALLS

24  
25 (1). EXHIBIT-I.I, Page 326 in high-  
26 lighted areas : " CALDATE : 3-01-2019 at :

27  
28 supplemental to opposition to <sup>ML</sup> Page 6 of 21  
summary judgment <sup>ML</sup>  
supplemental to opposition for summary judgment

1 7:14 pm " ASSESSMENT : 03-01-2019 at  
2 7:14 pm - " Patient cleared at Valley Care  
3 for Soft tissue injury / Sprain on bilateral  
4 hands. PLAN : 03-01-2019 at 7:14 pm ; Patient  
5 given 500 mg Tylenol for 3/10 pain level on  
6 hands. "

7  
8 (a). These quoted highlighted areas in  
9 Exhibit-I, Page 326 shows that on  
10 my sick call appointment on 03-01-2019  
11 at 7:14 pm that I was given 500 mg of  
12 Tylenol for my injuries; because I was  
13 in Pain.

14  
15 (2) EXHIBIT-I, Page 326 in highlighted,  
16 area's: "CALL DATE : 03-15-2019 2:07 pm  
17 SUBJECTIVE : 03-15-2019 1:36 pm ; IT has  
18 been 2 weeks and it still seems broken  
19 between the webbing and the knuckle on my  
20 L hand @ 10:55 ; Patient reports 5/10 pain  
21 on R hand and 8/10 pain on L hand.  
22 Patient states he needs pain medication.  
23 OBJECTIVE : 03-15-2019 1:36 pm , ND noted  
24 swelling on R hand. Mild swelling noted on L  
25 hand. Pt. has difficulty moving his L ring  
26 finger and middle finger, has difficulty  
27 making a fist. ASSESSMENT : 03-15-2019  
28 1:36 pm : Alteration in comfort. PLAN:

Supplement to the opposition to the Page 7 of 21  
summary judgment  
Supplemental to the opposition for summary judgment

1 03-15-2019 1:36 pm Will consult the  
2 provider for Pain Medication. Provider  
3 consulted VO given for meloxicam 7.5 mg.  
4 EDUCATION: 03-15-2019 1:36PM ADVISED  
5 to alert medical if swelling and pain is not  
6 resolved.

7 (a), These quoted highlighted area's in Exhibit -  
8 | Page 326 shows that on my sick call  
9 | appointment on 03-15-2019 that on my left...  
10 hand between the webbing of my knuckle  
11 I was having a lot's of Pain 8/10 and on the  
12 right hand A pain level of 5/10. This Medical  
13 document also shows that my left hand I  
14 was still mildly swollen and I was having  
15 difficulty moving my ring finger and middle  
16 finger and that I was having difficulty making  
17 a Fist. And that I needed pain medication  
18 in which they gave me because I was  
19 in a lot of Pain at this point from this injury.  
20

21 ((4), EXHIBIT (J), Pages 326 and 327 in  
22 highlighted area's: "CALL DATE: 09-30-2019  
23 1:14 pm, SUBJECTIVE: 09-30-2019 1:14  
24 pm, pt request to see a provider for chronic  
25 pain to L hand. Chronic pain in upper  
26 extremities. Has some numbness and  
27 tingling in his hand., ASSESSMENT: chronic

28 supplemental to the opposition to page 8 of 21  
summary Judgment

1 Were given by the doctor and carried  
2 OUT FOR PERCUTANEOUS ENDOSCOPIC  
3 GASTROSTOMY RETURN TO CLINIC AS  
4 NECESSARY.

5  
6 ZUCKERBERG SAN FRANCISCO  
7 GENERAL HOSPITAL MEDICAL  
8 DOCUMENTS

9  
10 (1). EXHIBIT-I.J, page 1, on 4-17-2019, in the  
11 highlighted areas: "REASON FOR APPOINTMENT:  
12 LT Hand / Body pain," "ASSESSMENTS & PLAN":  
13 Pain in right hand, pain of the left hand,  
14 Bilat hand Pain; "TREATMENT & ORDERS: PAIN IN  
15 RIGHHAND. Start Voltaren Gel, 1% as directed,  
16 transdermal, use as directed. Imaging: Hand and  
17 wrist Left \*, Imaging: Hand and wrist Right \*.  
18 PAIN OF LEFT HAND: Imaging: Hand and wrist  
19 Left \*, Imaging: Hand and wrist right. \*  
20 DISPOSITION & COMMUNICATION: Discharge  
21 Disposition: Discharged, instructions/precautions  
22 given, Condition at Discharge: Good. Follow up, PRN;  
23 HISTORY OF PRESENT ILLNESS: injured approx 2  
24 mos ago. L > R fingers and hand. Numbness, B/L.  
25 Unable to close L fist completely. "PAIN  
26 ASSESSMENT: Does the patient have pain?  
27 Yes. Pain quality: Stiff, aching. Pain location:  
28 2-5 fingers L hand. Pain frequency: Intermittent.

Supplemental to the opposition for summary judgment Page 15 of 21

SUMMARY JUDGMENT MC

Supplemental to the opposition for summary Judgment

1 Relief Measures: Warmth, hot water!

2  
3 (2). EXHIBIT-1.J , page 2, visit date : 4/17/2019.  
4 In the highlighted areas. " IMAGING : X-RAY  
5 HAND AND WRIST LEFT (final result); X-ray hand  
6 and wrist left : Hand and Wrist LT? " Indication  
7 for Exam: Pain Post Arrest. " X-RAY HAND  
8 AND WRIST RIGHT (FINAL RESULTS);  
9 hand And Wrist RT. Indication for exam:  
10 Pt. arrested 2 months Ago Cont. POOR ROM  
11

12 (a). These quoted highlighted areas in Exhibit-  
13 1.J, page's 1 and 2 shows that on 4-17-2019 I  
14 was still in pain on my Left hand and fingers  
15 and on my right hand I was also still in pain.  
16 In which the doctor Ordered me some pain  
17 Ointment. Because I was still in pain.  
18 Specifically on my Left hand and fingers.  
19 I could not close my left hand all the way.  
20 They also use the abbreviation ROM at the  
21 bottom of page 2 Which stands for: Rupture of  
22 membranes and that it was Poor. So I am  
23 thinking that because of this ROM the internal  
24 hand and fingers were having a hard time healing with less  
25 blood flow. Also the X-RAY were Negative.  
26 for any broken or fractured bone's.

27 This Medical Document also say's, to  
28 Follow up with Medical as necessary.

Supplemental to the opposition to my  
summary judgment

Page 16 of 21

supplemental to the opposition for summary judgment

OUT OF POCKET EXPENSES FROM GETTING  
KICKED OFF OF THE READY TO GO TO  
WORK LIST

(A). I am a Journeyman Carpenter with local 22 here in San Francisco.

(1). In (EXHIBIT 1.K), Page 1 in the highlighted area's the courts will see that on 12-20-2018 I payed Dues and signed the ready to go work list. (EXHIBIT 1.K), Page 2 in the highlighted area's the court will see that I had paid my due's with the Carpenter's local 22 on 02/25/2019. The day before the excessive force with the San Francisco Police officers, The excessive force which happened on: 02/26/2019.

The way the Carpenters Local Union 22 worked in 2019 was you would have to go to the union hall every 1st and 3rd Thursday of the week to sign the Ready to go to work list. This would make your name stay on the ready to go to work list. So that a carpenter can go to work. In (EXHIBIT 1.K), Page 3 in the highlighted area you will see that it says: Roll call 1st & 3rd Thursdays of the Month: 7:00 am - 12:00 p.m.

(2) So what happened is that on 2-26-2019 I falsely got arrested for assault and other charges which were dropped. The San Francisco County Main Jail let me out of jail on 2-28-2019.

Supplemental to the opposition to  
summary judgment AC Page 17 of 21  
Supplemental to the opposition for summary Judgment

1 It just so happens that I was on Federal  
2 probation with the United States District Court,  
3 Northern District of California. So on 3-1-2019  
4 I went to go see my probation officer and got  
5 arrested for Probation violation; because the  
6 Federal probation officer and Judge White of  
7 the criminal division of the United States  
8 District, Northern District of California in  
9 Oakland, CA did not know the charges had  
10 been dropped.

11 (a). (EXHIBIT - I.L, custody Activity CEN.  
12 9389699 PFN: ULW491; in the highlighted area's  
13 the court will see that on (03-01-2019) at 11:00  
14 am I got arrested. I stayed in custody until  
15 (03-25-2019) on a probation. Violation until the  
16 criminal federal Court found out that the charges  
17 that I got on 2-26-2019 got dropped.

18 (3). Because of these false arrest charges on  
19 (02-26-19) I missed the 1st Thursday of the  
20 month of March in 2019 to sign the ready to go  
21 to work list. Therefore I got kicked off of  
22 the ready to go to work list because I was in  
23 jail. Per-(Exhibit - I.L, custody Activity CEN:  
24 9389699 PFN: ULW491.

25 (a). So this means that when I got out on  
26 3-25-2019 I had to resign up on the Carpenters  
27 Local Union 22 ready to go to work list again.  
28 Dropping me to the bottom of the list. A list I had

Supplemental to the opposition to my  
summary judgment  
Supplemental to the opposition to Summary Judgment

1 been on for 2 months . In (EXHIBIT-1.K, Dues  
2 Card, page's 1-3 will show that I had been  
3 keeping up on my DUES at the Carpenters  
4 Local 22 and trying to go out to work. Dropping  
5 Me to the bottom of the Ready to go to work  
6 list made me miss out on about 2 month of  
7 work as a Journeyman Carpenter with local 22.  
8 In the highlighted area the court will see that  
9 in EXHIBIT (I.M), Carpenters Detail hours of  
10 Michael Luckert, UBC# U59563998, that in  
11 the highlighted, (work Month), the court will see  
12 that I have a long work history with the  
13 Northern California Carpenters Union. As the  
14 Court will also see in the highlighted area of  
15 (work Month) that the last time that I  
16 worked before the excessive force was 11-01-2018.  
17 So this means I was out of work and on the  
18 Ready to go to work list with my dues payed per-  
19 Dues Card, (EXHIBIT -1.K, pages 1-3 from  
20 December to February ~~of~~ of 2019, (EXHIBIT-  
21 I.M), Carpenters Detail hours in the highlighted  
22 area's of (work Month) the court will also see  
23 that I have a gap in my employment with the  
24 Carpenter UNION from (11-01-2018 to 05-01-2019)  
25 in which I could not work because of this  
26 false arrest and getting kicked off the ready  
27 to go to work list and having to start all over  
28 from the bottom of the Ready to go to work list.

supplemental to the opposition to the  
summary judgment mc Page 19 of 21

supplemental to the opposition for summary judgment

1 Date: 12-16-2024  
2 Signature of Attorney in pro-se: Michael Duckert  
3  
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28

(I) AUTHORITIES  
OF  
CASE LAW

1 (I). AUTHORITIES OF CASE LAW

2 (A) Fourth Amendment Cases for excessive force

- 3 (1). Leibel v. City of Buckeye, 364 F. Supp. 3d 1027 (D. Ariz. 2019).
- 4 (2). Joseph v. Donahue, 392 F. Supp. 3d 973 (D. Minn. 2014).
- 5 (3). United States v. Bundy, 406 F. Supp. 3d 932 (D. Nev. 2018).
- 6 (4). Davis v. City of Las Vegas, 478 F. 3d 1048 (9th Cir. 2007),  
7 (applying Nevada law).
- 8 (5). Row v. Holt, 864 N.E.2d 1011 (Ind. 2007) (under Common Law).
- 9 (6). Hulett v. City of Syracuse, 253 F. Supp. 3d 462  
10 (N.D. N.Y. 2017) (Applying New York law).
- 11 (7). Nelson v. County of Wright, 162 F. 3d 986 (8th Cir.  
12 1998) (when an officer commits a willful or malicious  
13 wrong).
- 14 (8). Touchton v. Bramble, 284 Ga. App. 164, 643 S.E.2d  
15 541 (2007).
- 16 (9). Karelis v. Storz, (Not entitled to qualified immunity).  
17 406 F. 3d 740 (8th Cir. 2018).
- 18 (10). (Not required to specifically identify which particular  
19 officer used excessive force in order to overcome the  
20 officer's motion for Summary Judgment based on qualified  
21 immunity). Hunter v. Leeds, City of, 941 F. 3d 1265 (11th  
22 Cir. 2020).
- 23 (11). Was not objectively reasonable and was not fleeing  
24 of resisting arrest and was not asked to get out of  
25 Vehical. Sergeant aggressively pulled arrestee out of  
26 vehical, forcefully turned her around, slammed arrestee  
27 against car door, and cuffed her hands behind her back,  
28 resulting in her right arm swelling to twice it's size.
- (1). Authorities of case law

1 Andrew V. Scott, 729 Fed Appx. 804 (11th Cir. 2018).  
2 (a) Complained that her hand cuffs were on too tight and were  
3 hurting her and she took photo's one day later after incident  
4 showing injuries on her hands, wrists and arms. Rudolph V.  
5 Babinec, 939 F.3d 742 (6th Cir. 2019);  
6 (13) Not entitled to qualified immunity. Unconstitutional  
7 excessive force by handcuffing her too tightly she was bruised.  
8 Tight hand cuffing that caused physical injury. McGrew V.  
9 Duncan, 937 F.3d 664 (6th Cir. 2019).  
10 (14). More force than is reasonably necessary. Schaeffle V.  
11 Jefferson County, 788 F.3d 855 (8th Cir. 2015) (under  
12 Missouri law).  
13 (15). Overlapping claims of excessive force and unlawful  
14 arrest. Adams V. Metiva, 31 F.3d 375, 1994 Fed App 0277P  
15 (6th Cir. 1994); Renk V. City of Pittsburgh, 537 Pa 68, 641  
16 A.2d 289 (1944); Wardlaw V. Pickett, 1 F.3d 1297 (D.C. Cir.  
17 1993); Etheredge V. District of Columbia, 635 A.2d  
18 908, 33 A.L.R. 5th 795 (D.C. 1993); Sisneros V. Fisher,  
19 685 F Supp.2d 1188 (D.N.M) 2010); U.S. V. Tosti, 733 F.  
20 3d 816 (9th Cir. 2013). /similar to: In opposition to summary  
21 Judgment, page 4 line 22 through page 5 Line 4.  
22 (16). Fontana V. Haskin, 262 F.3d 871 (9th Cir. 2001) ML  
23 -holding that the Constitution prohibits conduct by law ML  
24 enforcement officers that shocks the conscience OR ML  
25 offends human dignity. /similar to officer (officer 2 1428 actions)  
26 (B). EIGHTH AMENDMENT CASES FOR EXCESSIVE FORCE  
27  
28 (1). Bearchild V. Cobban, 947 F.3d 1130 (9th Cir. 2020).  
(2). Authorities of case law

- 1 (2). Inmate must establish that there was both some degree of  
2 actual or potential injury, and that society considers the acts  
3 that complains of to be so grave that it violates  
4 contemporary standards of decency to expose anyone  
5 unwillingly to these acts. Const Amend 8. Garnica V.  
6 Washington Dept of Corrections, 965 F. Supp 2d 1250  
7 (Wash 2013). /similar to these officer's and ~~Gutierrez~~ MENDOZA #2324 actions.  
8 (3). Involve the unnecessary and wanton infliction of Pain.  
9 U.S.C.A. Const Amend. 8. Crawford V. Cuomo, 796 F. 3d 252  
10 (2d Cir. 2015).  
11 (4). factor used to determine whether application of force  
12 was applied maliciously and sadistically to cause harm. OR  
13 instead ~~ML~~ evinced such wantonness with respect to the  
14 unjustified infliction of harm as is tantamount to a  
15 knowing williness that it occur. U.S. C. A Const. Amend 8.  
16 Watson V. Edelen, 76 F. Supp. 3d 1332 (N.D. Fla. 2015).  
17 (5). Among unnecessary and wanton infliction of Pain Constituting cruel  
18 and unusual punishment forbidden by the Eighth Amendment are  
19 those that are totally without penological justification.  
20 Wilkins V. Gaddy, 559 U.S. 34, 130 S Ct. 1175, 175 L.  
21 Ed 2d 495 (2010); U.S. V. LaVallee, 439 F. 3d 670  
22 (10th Cir. 2006); Hope V. Pelzer, 536 U.S. ~~730~~<sup>ML</sup> 122,  
23 S.Ct. 2508, 153 L. Ed. 2d 666 (2002).  
24 (6). Handcuffed and controlled, Prisoner suffered injuries  
25 including abrasions to his wrist/wrist sprains, Violating  
26 contemporary standards of decency . U.S. Const. Amend 8  
27 Hammond V. Lapeer County, 133 F. Supp. 3d 899 (E.D. Mich  
28 2015); Pelfrey V. Chambers, 43 F. 3d ~~8~~<sup>ML</sup> 1034, 1995 Fed  
(I). Authorities of case law

1. App. 10002P (6th Cir. 1995); Harris v. Chapman, 97 F.3d 499,

2. 415 Fed.R.Evid. § 1063 (11th Cir. 1996); Gomez v. Randle,

3. 680 F.3d 859 (7th Cir. 2012); Cockrell v. Sparks, 510 F.3d

4. 1307 (11th Cir. 2007); Hamilton v. Brown, 630 F.3d 889

5. (9th Cir. 2011). /

6. ROSA V. LOZA 2010 N.S. Dist., LEXIS 20558: UNITED  
7. STATES DISTRICT COURT FOR THE NORTHERN DISTRICT  
8. OF CALIFORNIA, Plaintiff wrists as well as other  
9. injuries he had ~~sustained~~<sup>injury</sup> sustained. Subsequently however,  
10. the medical evaluation sheet was tampered with and  
11. re-written, "Omitting the injuries to Plaintiff's  
12. wrists." Constitutional Rights under the Eighth Amendment.  
13. to be free from the use of excessive force on two  
14. separate occasions. (1) in the course of defendants'  
15. interactions with plaintiff on the Facility C Yard  
16. during the disturbance, and (2) when plaintiff...  
17. need not allege that he suffered serious injury  
18. in order to establish a Eighth Amendment Violation.  
19. (1.) Use of force on the Facility C Yard. Plaintiff...  
20. in the verified complaint, alleges that defendant used  
21. excessive force....

22. A triable issue with respects to whether defendant  
23. used excessive force. After removing him from facility C  
24. yard. Additionally as noted above, A triable issue  
25. of material fact exist with respects to the extent of  
26. the injuries.

27. Dated: 12-16-2024

28. Signature of Attorney in pro se: Marshall Freedent

DEFAULT; DEFAULT  
JUDGMENT FOR  
FAILURE TO PRESERVE  
ELECTRONICALLY  
STORED INFORMATION

1 Michael Luckett

2 391 ELLIS ST, San Francisco, CA 94102

3 eMail: michaelluckett1@gmail.com

4 707-803-3836

5  
6 UNITED STATES DISTRICT COURT

7 NORTHERN DISTRICT OF CALIFORNIA

8 Michael Luckett, plaintiff

9 VS

10 San Francisco Police. Dept

11 AND OFFICER: GUTIERREZ

12 #1928

13 Case No. 19-cv-08204.

14 PJH. / DEFAULT;

15 DEFAULT Judgment

16 FOR FAILURE TO

17 PRESERVE

18 ELECTRONICALLY

19 STORED INFORMATION.

20 F.R.C.P. RULE 55

21 To the honorable Judge of the court and to  
22 the Jury. A default judgment may be entered  
23 against the UNITED STATES, its officers, or its  
24 agencies only if the claimant establishes a  
25 claim or a right to relief by evidence that  
26 satisfies the court. So please conduct an  
27 accounting of the above caption. Determine  
28 the amount of damages. Establish the truth of  
any allegation by evidence and investigate any  
other matters.

F.R.C.P. Rule 37(e) Failure To Preserve.

Electronically stored information. If

electronically stored information that should have

DEFAULT; DEFAULT Judgment For Failure/ page 1 of 6  
to preserve Electronically Stated  
information.

been preserved in the anticipation or conduct  
of litigation is lost because a party failed  
to take reasonable steps to preserve it,  
and it can not be restored or replaced  
through additional discovery, the court:  
(1) upon finding prejudice to another party  
from loss of the information, may order  
measures no greater than necessary to cure  
the prejudice; or (2) only upon finding that  
the party acted with the intent to deprive  
another party of the information's use in  
the litigation may: F.R.C.P Rule 37(e)(1)(C)

In this case I am seeking a entry of  
default Judgment on the defence and/or  
defendants, because of the following  
documents:

1. (EXHIBIT - 1.N), original COMPlaint  
under the Civil Rights ACT, 42 U.S C S 1983,  
Document 1 Filed 12/17/19, Page 4, line 4-5

I state "At this time the Police officers  
took turns on me."

so when This COMPlaint was Filed  
12-17-19 the defence and its attorney's  
should of taken steps to preserve the  
electronically stored Body camera's and Video  
Surveillance it was not just.

Default; Default Judgment for failure Page 2 OF 6  
to preserve Electronically stored  
information.

1 one officer, but officers involved in this case  
2 doing the excessive force AND Medical Neglect, (EXHIBIT 1 N)  
3 Original complaint page 4 Lines 25-28 the  
4 plaintiff is stating " Subpoena of Video  
5 surveillance and body cameras you will see that  
6 Officer : D. Smith and other officers involved  
7 in this incident have committed Excessive Force  
8 AND Medical Malpractice".

9 So with these types of statements in my  
10 original complaint of 12/17/19 the defence  
11 and the defendants involved in this case  
12 should of Preserved the Electronically stored  
13 body camera and Video surveillance. But they  
14 did not they erased or destroyed Evidence  
15 of the Body cameras and Video Surveillance  
16 maliciously and Sadistically right after  
17 I filed the original complaint on 12/17/19.

18 2. (EXHIBIT-1.O) OFFICE OF THE CITY

19 Attorney, letter dated April 17, 2024.

20 The Attorney In this document is saying that  
21 they "disposed of the Video surveillance on  
22 February 1, 2020" and that the body camera's  
23 " while the surveillance video was disposed of  
24 months prior on February 1, 2020".

25 2b. I do believe the defendant and  
26 Council have some kind of minimum  
27 standards for preserving electronically stored  
28 video/body camera surveillance. I do believe

1 it is 1 Year for the state and 2 years for federal  
2 civil case's. In this case No. 19-cv-08204-PJH  
3 the defence/Sanfrancisco police dept. violated  
4 even the minimum standard for the State. For  
5 preserving electronically stored information being  
6 body Camera's and Video Surveillance by disposing of  
7 it on or before February 1, 2020 when the date of  
8 this Excessive Force/Medical Neglect incident was  
9 February 26, 2019.

## CONCLUSION

This Default; Default Judgment for Failure to  
Preserve electronically stored information, F.R.C.P.  
Rule 37(e). By not Preserving electronically stored  
information of Video Surveillance/body camera's For  
2 Counts of Excessive force which is explained in:  
(IN SUPPORT of Documented Pleadings for evidence  
and EXHIBITS for summary Judgment) Summary  
Judgment, (supplemental to Default Judgment)  
Summary Judgment with medically documented  
Exhibit's - I.G, I.H, I.I, I.J., In Which the Plaintiff  
had to go through with his hands, wrists injury.

This Default; Default Judgment for Failure to  
Preserve electronically stored information F.R.C.P  
Rule 37(e) is also for failure to Preserve Video  
Surveillance/body camera's for Medical Neglect  
which is documented in (In Support of Documented

Default, Default Judgment for  
Failure to Preserve Electronically  
stored information. 4 OF 6

1 Pleadings for evidence and EXHIBITS for Summary Judgment  
2 Page 2 Line 6 through Page 5 Line 15, with  
3 documented exhibits.

## RELIEF

4  
5  
6  
7 DEFAULT, DEFAULT JUDGMENT FOR FAILURE TO  
8 PRESERVE ELECTRONICALLY STORED  
9 INFORMATION OF VIDEO SURVEILLANCE/  
10 BODY CAMERA'S OF THE FOLLOWING INCIDENTS:

11  
12 (1). 2 Counts of Excessive force .

13 (2). 1 Count of Medical Neglect.

14 (3). \$ 60,000 in damages for 2 counts of  
15 excessive force . Causing injury to Plaintiff  
16 and for Pain and Suffering .

17 (4). \$ 10,000 for Medical Neglect from San  
18 Francisco Jail Medical Triage and pulling  
19 me away not letting me get medical treatment  
20 for my hand's, wrist's injury .

21 (5). \$ 7,744.00 for out of Pocket expenses  
22 in Monetary damages. For Plaintiff being injured  
23 from excessive force and not being able to  
24 work . OR Because the plaintiff got arrested  
25 for false charge's of resisting arrest etc. And  
26 was sent to jail for a probation violation that  
27 got dropped. Because of these false charges  
28 Plaintiff had to start all over at the bottom

Default , Default Judgment For  
Failure to preserve electronically  
stored information .

1 of the ready to go to work list. Causing Plaintiff  
2 to be out of work for 2 more extra months in  
3 his normal trade as a Union Journeyman Carpenter.  
4 (6). Pay for Plaintiffs' Filing fee .

5 (7). Restraining order on the guilty defendant  
6 that caused Excessive force/Medical Neglect.

7 (8). Removed from the duties to protect and  
8 serve the Community as a police officer/  
9 security guard etc. Because of excessive  
10 force/medical Neglect .

11  
12 The plaintiff is suing in official capacity  
13 and Individual Capacity .

14  
15  
16 Date: ~~6-6-2024~~ <sup>12</sup> 12-16-2024  
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Signature of Attorney in Pro-Se :  
Michael Luckert